IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 6TH DECEMBER 2006 / 15TH AGRAHAYANA 1928

RCRev..No. 405 of 2006()

RCA.129/2005 of ADDL.DISTRICT COURT, KOZHIKODE
RCP.72/1998 of ADDL.M.C.,KOZHIKODE-II
(IA 1498/03)
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REVISION PETITIONER/APPELLANT/PETITIONER

KAKKATTU ANDIKUTTY @ SOMAN,
AGED 60 YEARS, KANNANKARA AMSOM DESOM,
KOZHIKODE TALUK.

BY ADV. SRI.NIRMAL. S

RESPONDENTS:
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1. CHANGALAVALAPIL PRABHAKARAN,
AGED 60 YEARS, S/O.MADAVI AMMA,
KASABA AMSOM DESOM, KOZHIKODE TALUK.

2. DIVAKARAN, AGED 57 YEARS,
S/O.MADAVI AMMA, KASABA AMSOM DESOM,
KOZHIKODE TALUK.

3. RADHAMMA, AGED 56 YEARS,
S/O.MADAVI AMMA, KASABA AMSOM DESOM,
KOZHIKODE TALUK.

4. RAVINDRAN,
AGED 54 YEARS, S/O.MADAVI AMMA,
KASABA AMSOM DESOM, KOZHIKODE TALUK.

5. MALATHIAMMA,
AGED 52 YEARS, S/O.MADAVI AMMA,
KASABA AMSOM DESOM, KOZHIKODE TALUK.

6. CHANGALAVALAPPIL BHASKARAN,
AGED 50 YEARS, S/O.MADAVI AMMA,
KASABA AMSOM DESOM, KOZHIKODE TALUK.

7. SUDHAKARAN, AGED 46 YEARS,
S/O.MADAVI AMMA, KASABA AMSOM DESOM,
KOZHIKODE TALUK.

8. UMADEVI, AGED 44 YEARS,
S/O.MADAVI AMMA, KASABA AMSOM DESOM,
KOZHIKODE TALUK.

9. GOWRI,
AGED 42 YEARS, S/O.MADAVI AMMA,
KASABA AMSOM DESOM,
KOZHIKODE TALUK.

10. PUSHPA,
AGED 38 YEARS, S/O.MADAVI AMMA,
KASABA AMSOM DESOM, KOZHIKODE TALUK.

11. GOPALAKRISHNAN,
AGED 38 YEARS, S/O.MADAVI AMMA,
KASABA AMSOM DESOM, KOZHIKODE TALUK.

BY /

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 06/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.A. ABDUL GAFOOR & K.R. UDAYABHANU, JJ

R.C.Rev. NO. 405 OF 2006

Dated this the 6th day of December 2006

ORDER

Udayabhanu, J

The Revision Petitioner is the tenant who has been evicted as per order of the Rent Control Act in R.C.P. 72/98 after the appeal and revision taken over the order of the Rent Control Court were dismissed. The case of the petitioner is that the respondents/landlords have violated section 11(12) as they did not occupy the premises within one month as envisaged. Vacant possession was obtained on 29.09.2002. The courts below concurrently found that the landlords have furnished sufficient reasons for non occupation, as contemplated under section 11 (12). The premises got evicted for starting a business of repairing of fridges and air conditioners. R11, the son of the first petitioner had to start the air conditioning and refrigeration repair business and it was proposed that R7 would assist in running the business. During the pendency of the RCA, the first respondent, to whom

the property belonged, died and hence concurrence of the rest of the co-owners was required for really starting the business. In the meantime R11 got employment in government and hence R7 being a deaf and dumb person is incapable to start the business in the repair of refrigerators and air conditioners. Hence, the business of selling of firewood and other materials that can be done by a deaf and dumb person was intended to be started in the premises. Application for licence were filed. It is also pointed out that for last 20 years the petitioner/tenant was conducting an automobile workshop in the petition schedule premises and the premises were in need of elaborate repairs. The schedule premises was found locked with some laterite stones and sand stocked inside the building which has been noted by the Commissioner when he inspected on 26.03.2003. The courts below found that the above circumstances provided sufficient reasons as contemplated under section 11(12) for non occupation.

On the second inspection of the Commissioner it was found that the R7 is conducting business in firewood, bricks and tiles in

the premises. It has also to be noted that the bona fide need arose in 1998, and the RCP was filed and vacant possession was obtained only on 29.09.2002 i.e., after more than 4 years. We find that the contention of the petitioner/tenant that the courts below has gone wrong in the above finding cannot be upheld. We find that the orders of the courts below are supported by sufficient reasons and there is no ground to interfere. The revision petition is dismissed accordingly.

K.A. ABDUL GAFOOR, JUDGE

K.R. UDAYABHANU, JUDGE.

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